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EXTRAORDINARY

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PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## LOK SABHA

The following Bills were introduced in Lok Sabha on the 21st April, 1989:—

BILL No. 18 OF 1989

*A Bill further to amend the Indian Penal Code.*

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 1989.

Short title and commencement.

(2) It shall come into force at once.

45 of  
1860.

2. In section 376 of the Indian Penal Code (hereinafter referred to as the principal Act).—

Amendment of section 376.

(i) in sub-section (1), in the proviso, for the words “the Court may,” the words “the Court, after hearing the woman subjected to rape and any social organisation of women that may desire to be heard, may,” shall be substituted;

(ii) in sub-section (2), in the proviso, for the words “the court may,” the words “the court, after hearing the woman subjected to rape and any social organisation of women that may desire to be heard, may,” shall be substituted.

(1)

Insertion  
of new  
section  
376E.

3. After section 376D of the principal Act, the following section shall be inserted, namely:—

Character  
of the  
woman not  
to be a  
deciding  
factor for  
punish-  
ment..

“376E. The court shall not take into account the character of the woman subjected to sexual intercourse punishable as an offence under sections 376 to 376D in deciding the quantum of punishment.”.

## STATEMENT OF OBJECTS AND REASONS

The Supreme Court in its recent judgment reduced the quantum of punishment imposed on certain police officers committed for raping a woman on the ground that the lady concerned was of easy virtue. The character of a lady should be considered irrelevant in the matter of deciding the quantum of punishment for rape. Once an offence of rape is established, the question of character of the woman becomes irrelevant for the simple reason that notwithstanding the nature of the personal character of any woman or her social circumstances, her dignity and honour cannot be permitted to be subjected to deprivation by any person. No woman, notwithstanding any personal weaknesses, can be subjected to sexual inter-course against her will i.e. without her consent.

The existing law does not contemplate the character of a woman to be taken as a mitigating circumstance for reducing the quantum of punishment. However, to make the position more clear, it is necessary to amend the provisions of the Indian Penal Code relating to the offence of rape and connected offences.

Several women's organisations in the country have expressed their resentment against the judgment of the Supreme Court. Some of them have requested the Chief Justice of India to direct a review of the judgment. It is, however, desirable that instead of spending time on awaiting the action of the Supreme Court in the matter, the Parliament should amend the Code with a view to provide that women's social organisations should be heard, if they so desire, if the court thinks that there are special reasons for awarding lesser punishment than the minimum provided for an offence.

The Bill seeks to achieve this object.

HAROOBHAI MEHTA

NEW DELHI;  
February 17, 1989.

## BILL NO. 24 OF 1989

*A Bill to provide for abolition of capital punishment in India.*

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

Short  
title.

1. This Act may be called the Abolition of Capital Punishment Act, 1989.

Abolition  
of capital  
punish-  
ment.

2. Capital punishment is hereby abolished in India.

Maximum  
punish-  
ment for  
any  
offence.

3. Notwithstanding anything contained in the Indian Penal Code or any other law for the time being in force, maximum punishment for any offence shall not be more than imprisonment for life.

45 of  
1960.

## STATEMENT OF OBJECTS AND REASONS

Life is sacred and precious. So, one must imbibe reverence for life. Vengefulness is waste of life.

Human beings are borne once, and they can not be brushed aside and finished by any legal contrivance or a statutory dispensation. No State can arrogate to itself a legal right to do away with the life of a human being.

Crimes, thefts, murders, assaults, dacoities, etc. are undoubtedly grave offences against human life. But they are interwoven with the social, economic, cultural, political and behavioural life-pattern of the community. Such ugly and objectionable deeds are directly the result of an insecure and indigent human society, bereft of conditions of equilibrium and equity. The wrong-doer or the criminal is, therefore, to be treated as a mental case and be dealt with charitably and sympathetically without, of course, any misplaced leniency or unwarranted latitude. The emphasis, moreover, has to be on reformation and education rather than on rejection and retribution.

All forms of a death sentence are agonising and cruel. They do not cure the disease nor do they solve the problem. Human and universal experience shows that physical punishments scarcely ensure obedience to the different laws, rules and regulations designed for the good of community and welfare of society.

It must also be remembered that the human machinery set up for the purpose of punishing the guilty is bound to be full of inbuilt shortcomings. Persons inflicting punishments including death sentence are liable to err and the evidence on which a sentence is awarded could be misleading. A case of miscarriage of justice in the event of death sentence having been executed can never be repaired, for life once ended cannot be brought back. Thus, to keep an offender alive as a prisoner would in any case be erring on the safe side.

Capital punishment has been abolished in several countries of the world and the experience so far does not indicate any appreciable growth in crime and murder.

Then, why should we in India grudge in this matter, especially when capital punishment has never been encouraged by our centuries old traditions, morality and ethics?

Death sentence can never be indispensable. What is important to note is that long terms of imprisonment are equally effective. And, what is more, life sentence leaves an opportunity both for reformation, almost a rebirth, of the criminal and a remedy for a possible miscarriage of justice.

Hence this Bill.

NEW DELHI;  
March 9, 1989.

THAMPAN THOMAS,

## BILL NO. 32 OF 1989

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

Short  
title.

1. This Act may be called the Constitution (Amendment) Act, 1989.

Amend-  
ment of  
article  
101.

2. In article 101 of the Constitution, in clause (3), in sub-clause (a), after the words “or clause (2)”, the words “or clause (3)” shall be inserted.

Amend-  
ment of  
article  
102.

3. In article 102 of the Constitution, after clause (2), the following clause shall be inserted, namely:—

“(3) A member of either House of Parliament who is suspended from the service of the House of which he is a member, under the rules regulating the procedure of the House, on not less than two occasions during his term as such member, shall be disqualified for being a member of the House from the date of the second suspension and he shall also be disqualified for being chosen as a member of either House of Parliament for a period of six years from that date.”.

4. In article 190 of the Constitution, in clause (3), in sub-clause (a), after the words "or clause (2)", the words "or clause (3)" shall be inserted.

Amend-  
ment of  
article  
190.

5. In article 191 of the Constitution, after clause (2), the following clause shall be inserted, namely:—

Amend-  
ment of  
article  
191.

"(3) A member of the Legislative Assembly or the Legislative Council of a State who is suspended from the service of the House of which he is a member, under the rules regulating the procedure of the House, on not less than two occasions during his term as such member, shall be disqualified for being a member of the Legislative Assembly or the Legislative Council of the State, as the case may be, from the date of the second suspension and he shall also be disqualified for being chosen as a member of a House of the Legislature of a State for a period of six years from that date."

## STATEMENT OF OBJECTS AND REASONS

In a democratic set up, legislatures are created so that the elected representatives of the people enact laws required for the governance of the country or the State concerned and also voice their feelings on different subjects from time to time, in accordance with a set procedure. Many a times, it has been observed that members of such legislative bodies do not conduct themselves in accordance with the rules of business governing them and disorderly scenes are created.

While the existing provisions of the Constitution provide for disqualification on the grounds of unsound mind, holding of office of profit, undischarged solvency, etc. and the latest ground being that of disqualification under the Tenth Schedule to the Constitution, there is no provision to disqualify a person who conducts himself in a way which is unbecoming of a member of Parliament or State Legislature.

The Bill seeks to achieve the above objective.

NEW DELHI;

March 16, 1989.

SHANTARAM NAIK



## BILL NO. 33 OF 1989

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

- |  |                                |
|--|--------------------------------|
| 1. This Act may be called the Constitution (Amendment) Act, 1989.  | Short title.                   |
| 2. Article 350A of the Constitution shall be renumbered as article 350AA and before the article as so renumbered, the following article shall be inserted, namely:—  | Insertion of new article 350A. |
| “350A. Parliament may by law lay down the tests and procedure for determining the mother-tongue of citizens and such law may also provide for punishment to those who make false declaration or who encourage or compel others to make false declaration.” | Declaration of mother-tongue.  |

## STATEMENT OF OBJECTS AND REASONS

Although existing article 350A of the Constitution provides, "It shall be the endeavour of every State and of every local authority within the State to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups.....", no criteria has been laid down to determine the mother-tongue of any linguistic minority group or otherwise. As a result, whenever, for the purpose of census or for any other purpose, the Government representatives approach the people to collect information as regards their mother-tongue, some irresponsible elements, for their political and/or other selfish ends, furnish false information as to their mother-tongue. In some places, people have substituted their mother-tongue by another language which they can read and write and thus make it difficult to detect whether the falsely substituted language is not in fact the mother-tongue of the concerned persons. But, there are cases where people have declared a language as their mother-tongue which neither they nor their mother speak or can speak.

This being a serious matter, the Government should not be unconcerned about it. If we have really to impart education to our children, whether belonging to any linguistic minority or otherwise, through their mother-tongue, then all the attempts at feeding false information with respect to mother-tongue of the citizens must be taken serious note of.

Hence this Bill.

NEW DELHI;  
March 16, 1989.

SHANTARAM NAIK

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SUBHASH C. KASHYAP,  
*Secretary-General.*